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OPEN MEETING ITEM

ORIGINAL

22

WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON  
KRISTIN K. MAYES



ARIZONA CORPORATION COMMISSION

BRIAN C. MCNEIL  
Executive Secretary

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AZ CORP COMMISSION  
DOCUMENT CONTROL

DATE: NOVEMBER 18, 2003

DOCKET NO: RR-03639A-03-0747

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Marc Stern.  
The recommendation has been filed in the form of an Opinion and Order on:

UNION PACIFIC RAILROAD COMPANY  
(GRADE-SEPARATED)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

NOVEMBER 28, 2003

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

DECEMBER 2, 2003 and DECEMBER 3, 2003

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931

Arizona Corporation Commission

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DOCKETED BY	
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BRIAN C. MCNEIL  
EXECUTIVE SECRETARY

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This document is available in alternative formats by contacting Yvonne McFarlin, ADA Coordinator, voice phone number 602-542-3931, E-mail [YMcFarlin@cc.state.az.us](mailto:YMcFarlin@cc.state.az.us)

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MARC SPITZER, Chairman  
4 WILLIAM A. MUNDELL  
5 JEFF HATCH-MILLER  
6 MIKE GLEASON  
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF  
9 THE ARIZONA DEPARTMENT OF  
10 TRANSPORTATION ON BEHALF OF THE  
11 UNION PACIFIC RAILROAD COMPANY TO  
12 CONSTRUCT A GRADE-SEPARATED  
13 CROSSING AT GREENFIELD ROAD AAR/DOT  
14 NO. 922-449Y, IN THE TOWN OF GILBERT,  
15 MARICOPA COUNTY, ARIZONA.

DOCKET NO. RR-03639A-03-0747

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER**

11 DATE OF HEARING:

November 13, 2003

12 PLACE OF HEARING:

Phoenix, Arizona

13 ADMINISTRATIVE LAW JUDGE:

Marc E. Stern

14 APPEARANCES:

15 Mr. David Ronald, Staff Attorney, Legal  
16 Division, on behalf of the Utilities Division of  
17 the Arizona Corporation Commission.

16 **BY THE COMMISSION:**

17 On October 9, 2003, the Arizona Department of Transportation ("ADOT") filed with the  
18 Arizona Corporation Commission ("Commission") a request for approval to construct a grade-  
19 separated crossing for the Union Pacific Railroad ("Railroad") track over its intersection at the new  
20 alignment of Greenfield Road, in Gilbert, Maricopa County, Arizona, AAR/DOT No. 922-449Y  
21 ("Application").

22 On October 24, 2003, by Procedural Order, the Application was set for hearing and ADOT  
23 was ordered to provide notice to any interested parties of the Application and the hearing.

24 On October 30, 2003, ADOT filed certification that notice had been provided pursuant to the  
25 terms of the Procedural Order.

26 On November 13, 2003, a full public hearing was held before a duly authorized  
27 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of  
28 the hearing, the matter was taken under advisement pending submission of a Recommended Opinion

1 and Order to the Commission.

2 \* \* \* \* \*

3 Having considered the entire record herein and being fully advised in the premises, the  
4 Commission finds, concludes, and orders that:

5 **FINDINGS OF FACT**

6 1. On October 9, 2003, ADOT filed an Application in which it requested an Opinion and  
7 Order from the Commission to approve an agreement between ADOT and the Railroad for the  
8 construction of a grade-separated crossing for the Railroad over its intersection with the new  
9 alignment of Greenfield Road which is under construction in Gilbert, Maricopa County, Arizona,  
10 AAR/DOT No. 922-449Y.

11 2. On October 30, 2003, ADOT filed certification that it had provided notice by certified  
12 U.S. mail of the Application and hearing thereon.

13 3. A hearing was held as scheduled on November 13, 2003.

14 4. The Application provides for the Railroad's tracks to be constructed on an overpass  
15 above the new alignment of Greenfield Road.

16 5. Staff testified that the cost for the installation of the overpass as provided in the  
17 Application will be funded by ADOT.

18 6. After construction of the grade-separated crossing, the Railroad will be responsible for  
19 the maintenance of its tracks, in accordance with A.A.C. R14-5-104, but the overpass bridge will be  
20 maintained by ADOT.

21 7. Staff has recommended that the Application be approved.

22 **CONCLUSIONS OF LAW**

23 1. The Commission has jurisdiction over the Railroad and over the subject matter of the  
24 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and  
25 40-337.01.

26 2. Notice of the Application was provided in accordance with the law.

27 3. The construction of the grade-separated crossing at the new alignment of Greenfield  
28 Road is necessary for the public's convenience and safety.

4. The Application should be approved as recommended by Staff.

**ORDER**

IT IS THEREFORE ORDERED that the Arizona Department of Transportation's Application on behalf of the Union Pacific Railroad Company is hereby approved.

IT IS FURTHER ORDERED that the Union Pacific Railroad shall notify the Commission, in writing, within ten days of both the commencement and the completion of the crossing upgrade, pursuant to A.A.C. R14-5-104.

IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall maintain its tracks on the new Greenfield Road overpass in accordance with A.A.C. R14-5-104.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_ day of \_\_\_\_\_, 2003.

BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

MES:mlj

1 SERVICE LIST FOR: UNION PACIFIC RAILROAD COMPANY

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